In the High Court of Punjab and Haryana, Chandigarh.

CWP No. 7814-CAT of 2001

Date of Decision: 11.10.2006

Sports Authority of India

....Petitioner

Versus

Chandigarh Administrative Tribunal, Chandigarh Bench, Chandigarh and another.

....Respondents.

Coram:- Hon'ble Mr.Justice J.S. Khehar.
Hon'ble Mr. Justice S.D. Anand.

Present: Mr. Arvind Moudgil, Advocate
for the petitioner.

Mr. Manu K. Bhandari, Advocate
for respondent No.2.

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J.S. Khehar, J. (Oral).

Respondent No.2, Naresh Kumar approached the Chandigarh Administrative Tribunal, Chandigarh Bench, Chandigarh (hereinafter referred to as the Administrative Tribunal) so as to impugn the order dated 9.4.1996, whereby he had been reverted from the post of Assistant Director in the pay scale of Rs.2200-4000, to the post of Personal Assistant in the pay scale of Rs.1400-2300. Original Application No.555-PB. of 1996, filed by respondent No. 2 was allowed by the Administrative Tribunal, by its order dated 9.1.1998. The order passed by the Administrative Tribunal dated 9.1.1998, is subject matter of challenge at the hands of the petitioner in this Court.

In adjudicating upon the controversy raised in the present writ

petition, it will be necessary to trace the service career of respondent No.2. The facts, as have been jointly presented during the course of hearing of the instant writ petition, disclose, that respondent No.2 was inducted into the service of the Netaji Subhash Chand National Institute of Sports (hereinafter referred to as the NS-NIS) against the post of Steno-typist, by an order dated 10.11.1983, on adhoc basis for a period of six months. The post of Steno-typist at the said juncture, was in the unrevised pay scale of Rs.320-426, which came to be revised to Rs.1300-2040. Respondent No.2 was then regularised as a Steno-typist w.e.f. 10.8.1984. Onward promotion from the post of Steno-typist, is to the post of Personal Assistant. Respondent No.2 was promoted as a Personal Assistant, in the first instance, for a period of three months, on 1.8.1986 in the pay scale of Rs.1400-2300. His appointment as Personal Assistant was extended for a period of six months. During this extended period, respondent No.2 was placed in the scale of Rs.1640-2900, allegedly on account of the fact, that persons junior to respondent No.2 had been placed in the pay scale of Rs.1640-2900, w.e.f. 1.4.1987. Thereafter, respondent No.2 came to be regularised against the post of Personal Assistant w.e.f. 1.5.1987. Onward promotion from the post of Personal Assistant, is to the post of Senior Personal Assistant. Respondent No.2 was promoted as Senior Personal Assistant w.e.f. 7.10.1992, and eventually, as Assistant Director in the pay scale of Rs.2200-4000, by an order dated 7.12.1992, w.e.f. 7.8.1991.

It would be pertinent to mention, that the NS-NIS was a part of the Board of the Society of National Institute of Physical Education and Sports (hereinafter referred to as the SNIPES). SNIPES is admittedly a society registered under the Registration of Societies Act, 1860. SNIPES

i.e. the parent organisation of NS-NIS was amalgamated/merged with the Sports Authority of India (hereinafter referred to as the SAI) w.e.f. 1.5.1987, consequent upon a resolution passed in this behalf by the Government of India.

Respondent No.2 was issued a show cause notice dated 23.1.1995, informing him, that his seniority in the SAI, consequent upon the merger of SNIPES with the SAI w.e.f. 1.5.1987, had wrongly been determined by accepting the date of his regularisation against the post of Personal Assistant, as 1.8.1986, whereas, as a matter of fact, he had been regularised against the post of Personal Assistant w.e.f. 1.5.1987. Consequently, he was informed, that it was necessary to correct/rectify the mistakes committed by allowing him various promotions from time to time, on the assumption, that he had been regularised against the post of Personal Assistant w.e.f. 1.8.1986, whereas, he had factually been regularised against the post of Personal Assistant w.e.f. 1.5.1987.

The only issue necessary to be adjudicated upon is, whether respondent No.2 is to be treated as having been appointed against the post of Personal Assistant w.e.f. 1.5.1987 i.e. the date of his regularisation, or w.e.f. 1.8.1986 i.e. the date with effect from which he was promoted as such for a period of three months, in the first instance on adhoc basis. According to the learned counsel for the petitioner, if it is concluded, that the appointment of respondent No.2, to the post of Personal Assistant must relate to the date of his regularisation i.e., w.e.f. 1.5.1987, then the impugned order passed by the Administrative Tribunal will have to be set aside by upholding the order dated 9.4.1996. However, if it is concluded, that the appointment of respondent No.2, to the post of Personal Assistant

must be accepted w.e.f. 1.8.1986, then the determination at the hands of the SAI, by its order dated 9.4.1996, shall necessarily have to be set aside.

Learned counsel for the petitioner having pin-pointed the issue, that needs to be adjudicated, we have pointedly examined the aforesaid issue. Since the issue in hand is relatable to the assignment of seniority to respondent No.2 on the merger of SNIPES with the SAI, we are satisfied, that the matter has to be examined in terms of the Sports Authority of India (Service) Bye-laws and Recruitment Rules (hereinafter referred to as the SAI Rules). Learned counsel for the petitioner has invited our attention to Rule 4 of the SAI Rules, which has also been extracted in the impugned order passed by the Administrative Tribunal, dated 9.1.1998. Rule 4 of the SAI Rules is being extracted hereunder:-

> "4. Initial Constitution :- (a) All the employees in SAI working on adhoc basis on any of the post mentioned in the schedule on the date of these rules come into force shall, after the approval by a duly constituted committee, be deemed to have been appointed under these rules with effect from a date as may be decided by the said screening committee in each individual case.
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> (b) All the employee working on a regular basis on any of the post contained in the schedule to these rules will be deemed to have been appointed under these rules with effect from the date of initial appointment to the post."

We are of the view, that the answer to the controversy raised in the instant writ petition will emerge from an interpretation of clause (b) of Rule 4, extracted hereinabove. A perusal of the aforesaid clause (b) reveals, that the

rule framing authority expressed two phrases with two different meanings and connotations in the aforesaid clause. Firstly, the phrase "...employees working on a regular basis...", and secondly, "...from the date of initial appointment to the post". In terms of the aforesaid clause (b), it is essential to determine the post against which an employee had been regularised. It is not a matter of dispute, that in the aforesaid determination, the SAI arrived at the conclusion, that respondent No.2 had been regularised against the post of Personal Assistant. Having arrived at the aforesaid conclusion, the next question is the date, which has to be assigned to the employee for purposes of accepting his appointment as such for the purposes of determining his inter se seniority in the amalgamated cadre of SAI. For the aforesaid purpose, clause (b) of Rule 4 of the SAI Rules, requires "the date of initial appointment to the post" as the date of appointment against such post. Resultantly, although, respondent No.2 was regularised against the post of Personal Assistant w.e.f. 1.5.1987, his appointment on the initial constitution of the SAI, consequent upon the amalgamation of the SNIPES with the SAI, must be accepted as 1.8.1986 i.e. the date with effect from which respondent No.2 was initially appointed as a Personal Assistant in the NS-NIS (which was then a part of the Board of the SNIPES).

Having arrived at the aforesaid conclusion, we have no hesitation to conclude, that the appointment of respondent No.2 for purposes of merger with the SAI, as against the post of Personal Assistant, must be treated as 1.8.1986, in terms of Rule 4(b) of the SAI Rules. In view of the aforesaid conclusion, in terms of the position conceded by the learned counsel for the petitioner, it is inevitable to uphold the impugned order passed by the Administrative Tribunal, dated 9.1.1998, and also

consequentially to hold, that the order passed by the SAI dated 9.4.1996 was not in consonance with law. Ordered accordingly.

For the reasons recorded above, we find no merit in this petition. The same is, accordingly, dismissed.

(J.S. Khehar)
Judge.

(S.D. Anand)
Judge.

11.10.2006
sk.